



FISCAL MEMORANDUM

SB 2085 - HB 2247

February 24, 2022

SUMMARY OF BILL AS AMENDED (013923): Expands the offenses of assault and aggravated assault against a first responder or nurse to include offenses committed against other licensed emergency healthcare providers. Defines other licensed emergency healthcare provider as a person who is licensed, registered, or certified to provide health care in an emergency.

Expands the offense of aggravated assault against a first responder or other licensed emergency healthcare providers to include throwing an item that strikes the first responder or emergency healthcare provider causing bodily injury that requires medical care.

Enhances the penalty for aggravated assault against a first responder or other licensed emergency healthcare provider, from a Class C felony to a Class A felony with a mandatory minimum 15-year sentence if the offense results in the death of a first responder or other licensed emergency healthcare provider.

Increases, from 30 days to 90 days, the mandatory minimum period of incarceration for assault against a first responder or other emergency healthcare provider.

Increase, from 90 days to 180 days, the mandatory minimum period of incarceration for aggravated assault against a first responder or other emergency healthcare provider.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures – \$631,400 Incarceration

Increase Local Expenditures – \$831,900/FY22-23 and Subsequent Years*

Assumptions for the bill as amended:

Assault Against First Responder - Increase in Mandatory Minimum Incarceration

- Pursuant to Tenn. Code Ann. § 39-13-116(c)(1) assault against a first responder or nurse is a Class A misdemeanor offense punished by a mandatory fine of \$5,000 and a mandatory minimum sentence of 30 days incarceration.
- The proposed legislation increases the mandatory minimum period of incarceration for assault against a first responder to 90 days.

- Public Chapter 3 of the Second Extraordinary Session of the 111th General Assembly created the offense of assault against a first responder. As such, statistics for convictions of the recently created offense are not yet available.
- Based on data obtained through the Tennessee Bureau of Investigation (TBI) Tennessee Incident Based Reporting System (TIBRS), over the last five years, there was an average of 427 arrests for simple assault against a law enforcement officer.
- Based on information in the FY19-20 Annual Report of the Tennessee Judiciary, approximately 47.7 percent of criminal court dispositions statewide resulted in a conviction.
- This analysis assumes 47.7 percent, or 203.6 ($427 \times 47.7\%$), of arrests would result in a Class A misdemeanor conviction under the proposed legislation.
- This analysis assumes individuals convicted of a Class A misdemeanor offense of assault against a first responder are spending the mandatory minimum 30 days in local jail. The proposed legislation will result in 203.6 offenders spending an additional 60 (90 – 30) days in local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$60.69.
- The proposed legislation will result in a recurring decrease in local incarceration expenditures estimated to be \$741,389 ($\$60.69 \times 203.6 \text{ offenders} \times 60 \text{ days}$) in FY22-23 and subsequent years.

Assault Expanded to Emergency Healthcare Providers

- The proposed legislation expands the offense of assault against a first responder to include offenses committed against other licensed emergency healthcare providers.
- This analysis assumes individuals charged with assault against an emergency healthcare provider pursuant to this legislation would be charged with a Class A misdemeanor offense of assault pursuant to Tenn. Code Ann. § 39-13-101 under current law.
- It is assumed that an individual convicted of a Class A misdemeanor offense spends an average of 15 days in a local jail.
- Based on information provided by the Department of Health, there are currently 382,499 registered, licensed, or certified healthcare providers in Tennessee.
- According to the U.S. Bureau of Labor Statistics 2018 fact sheet of workplace violence in the healthcare and social assistance industry, the incidence rate for nonfatal occupational injuries and illnesses involving days away from work resulting from intentional injury by another person from 2011 thru 2018 was 10.4 per 10,000 full-time workers.
- Applying the same incidence rate, it is reasonably assumed there are 397.79 [$(382,499 / 10,000) \times 10.4$] assaults committed against an emergency healthcare provider annually, and 10 percent or 39.77 ($397.79 \times 10.0\%$) of assaults result in arrest.
- This analysis assumes 50 percent or 19.88 ($39.77 \times 50.0\%$) arrests will result in a Class A misdemeanor conviction of assault against an emergency healthcare provider per year.
- The proposed legislation will result in 19.88 convictions annually serving an additional 75 days (90-15) in local jail.

- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$60.69.
- The recurring mandatory increase in expenditures to local governments is estimated to be \$90,489 (19.88 convictions x \$60.69 x 75) in FY22-23 and subsequent years.

Aggravated Assault First Responder - Increase in Mandatory Minimum Incarceration

- Pursuant to Tenn. Code Ann. § 39-13-116(c)(2) aggravated assault against a first responder or nurse is a Class C felony offense punished by a mandatory fine of \$15,000 and a mandatory minimum sentence of 90 days incarceration.
- The proposed legislation increases the mandatory minimum period of incarceration for aggravated assault against a first responder to 180 days.
- Based on information provided by the Department of Correction (DOC), the average time served for a Class C felony is 1.59 years.
- While the proposed legislation establishes mandatory sentence minimums, this analysis assumes that the offender will serve the established average sentence length.

Aggravated Assault Expanded to Emergency Healthcare Providers

- The proposed legislation expands the offense of aggravated assault against a first responder to include offenses committed against other licensed emergency healthcare providers.
- This analysis assumes individuals charged with aggravated assault against an emergency healthcare provider pursuant to this legislation would be charged with a Class C felony offense of aggravated assault pursuant to Tenn. Code Ann. § 39-13-102 under current law.
- Based on information provided by the DOC, there has been an average of 1,288 convictions in each of the last 10 years for the offense of aggravated assault where the offender is sentenced to community supervision probation.
- It is assumed five percent or 64 (1,288 x 5.0%) of such admissions were due to aggravated assault involving an emergency healthcare provider.
- The proposed legislation will result in 64 additional admissions annually serving 180 days.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 585,300	FY22-23
\$ 589,600	FY23-24
\$ 593,900	FY24-25
\$ 598,300	FY25-26
\$ 602,800	FY26-27
\$ 607,300	FY27-28
\$ 611,700	FY28-29
\$ 616,300	FY29-30
\$ 620,900	FY30-31
\$ 625,500	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$625,500.
- The proposed legislation expands the offense of aggravated assault against a first responder or other emergency healthcare provider to include throwing an item that strikes the first responder or emergency healthcare provider causing bodily injury that requires medical care.
- There will not be a sufficient change in the number of prosecutions for state government to experience any significant change in revenue or expenditures.

Aggravated Assault Resulting in Death

- Pursuant to Tenn. Code Ann. § 39-13-116(c)(2), aggravated assault against a first responder resulting in death is a Class C felony offense punished by a mandatory fine of \$15,000 and a mandatory minimum sentence of 90 days incarceration.
- The proposed legislation enhances the penalty for such an offense to a Class A felony offense with a mandatory minimum 15-year sentence.
- Based upon information provided by the DOC, there has been an average of 2.80 admissions in each of the last 10 years for the offense of aggravated assault resulting in death.
- This analysis assumes individuals charged with aggravated assault against an emergency healthcare provider that resulted in death, pursuant to this legislation would be charged with a Class C felony offense of aggravated assault pursuant to Tenn. Code Ann. § 39-13-102 under current law.
- The average sentence for aggravated assault resulting in death is 7.84 years. The estimated average time served for aggravated assault resulting in death is 3.09 years, or approximately 39.4 percent of the average sentence imposed (3.09 time served / 7.84 sentence).
- It is assumed that the average time served as a result of this legislation will be 5.91 years (15 years x 39.4%).
- It is reasonably assumed the proposed legislation will result in a sentence enhancement for one Class A felony every 5 years, serving an additional 2.82 years (5.91 – 3.09).

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring cost increases are to be estimated on the highest of the next ten fiscal years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding 10 years in length surpass the window of this analysis.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.74 percent per year for each of the past 10 years (from 2010 to 2020).
- The weighted average operational costs per day are estimated to be \$51.36 for inmates housed at state facilities and \$48.77 for inmates housed at local facilities.
- The estimated increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ -	FY22-23
\$ 100	FY23-24
\$ 100	FY24-25
\$ 1,900	FY25-26
\$ 4,000	FY26-27
\$ 5,900	FY27-28
\$ 5,900	FY28-29
\$ 5,900	FY29-30
\$ 5,900	FY30-31
\$ 5,900	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring costs increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in incarceration costs will be \$5,900.
- The total recurring increase in incarceration expenditures will be \$631,400 (\$625,500 + \$5,900).
- The total recurring mandatory increase in expenditures to local government is estimated to be \$831,878 (\$741,389 + \$90,489) in FY22-23 and subsequent years.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is minimal due to defendants often not being able to pay them; therefore, any increase in local revenue from fines is estimated to be not significant.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- Any impact to state incarceration expenditures is estimated to be not significant.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid, with the first letters of each name being capitalized and prominent.

Krista Lee Carsner, Executive Director

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